

BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

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IN THE MATTER FILED BY THE	:	NOTICE OF AGENCY ACTION
DIVISION OF OIL, GAS AND	:	DIVISION ORDER
MINING REQUIRING IMMEDIATE	:	FILE NO. M/043/012
CESSATION OF MINING, POSTING OF	:	
A REVISED NOTICE OF INTENTION	:	
AND ADDITIONAL RECLAMATION	:	
SURETY, PEOA BLONDE QUARRY,	:	
AMERICAN STONE, INC.,	:	
LON THOMAS, OWNER/OPERATOR,	:	
SUMMIT COUNTY, UTAH	:	

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The Division of Oil, Gas and Mining ("Division"), hereby directs the operator of the Peoa Blonde Quarry to cease all mine operations, file a revised mining and reclamation plan amendment and post additional reclamation surety. The site is located in Summit County, and surface disturbance occurs in the Southeast 1/4 of Section 20, Township 1 South, Range 5 East, SLBM, Summit County, Utah. The operator of record is American Stone, Inc. The company representative is Lon Thomas of Park City, Utah.

The Division finds that the Peoa Blonde Quarry, file M/043/012 is in non-compliance with sections of the Utah Mined Land Reclamation Act, 40-8-1 et seq (Act) and the Minerals Reclamation Program Rules (Rules), Sections R647-1 through R647-5. A \$25,000 interim reclamation surety has previously been posted with the Division for 12.0 acres of disturbance.

American Stone Inc. has not complied with the mitigation requirements as described in the Division's July 20, 1998, Notice of Agency Action and Division Directives dated October 19, 1998 and January 5, 1999. The operator's failure to comply with these requirements has resulted in the issuance of this Notice of Agency Action and Division Order.

Finding of Non-Compliance

- a. American Stone Inc.,s Peoa Blonde Quarry has exceeded the allowable surface disturbance as authorized under the Division's July 20, 1998, Notice of Agency Action. The disturbed acreage has been expanded from 12 to 17.7 acres without prior Division approval or posting an adequate reclamation surety for the additional 5.7 acres.

- b. American Stone Inc. has failed to comply with Division Directives dated October 19, 1998 and January 5, 1999 by expanding the footprint of disturbance at the Peoa Blonde Quarry before receiving Division approval of the LMO-NOI permit application.
- c. American Stone Inc. has expanded the disturbed area footprint beyond the limits identified within the existing LMO-NOI permit application (as per latest permit area maps received October 8, 1999 from the operator).
- d. American Stone Inc. has not made application for, or obtained an Air Quality Approval Order from the Utah Division of Air Quality for operation of a crusher.

Location of Non-compliance

The Peoa Blonde Quarry is located in the Southeast Quarter of Section 20, Township 1 South, Range 5 East, SLBM, Summit County, Utah.

Applicable Minerals Rules in Violation

R647-1-102.3 Operator Responsibilities, Compliance with other Local, State and Federal Laws: *the approval or acceptance of a complete notice of intention shall not relieve an operator from his responsibility to comply with the applicable statutes, rules, regulations and ordinances of all local, state and federal agencies with jurisdiction over any aspect of the operator's mining operations.*

R647-3--113. Mine Enlargement: *before enlarging a small mining operation beyond five (5) acres of surface disturbance, the operator must file a Notice of Intention to commence Large Mining Operations (FORM MR-LMO) and receive Division approval.*

R647-4-101. Filing Requirements and Review Procedures: *A Notice of Intention to Commence Large Mining Operation (FORM MR-LMO) must be approved by the Division before mining operations begin.*

R647-4-113.1 Surety: *After receiving NOI approval, but prior to commencing operations, the operator shall provide the reclamation surety to the Division.*

Chronology of Recent Permitting Events

- On May 29, 1998, The Division conducted an inspection of the Peoa Blonde Quarry and found that the disturbed acreage at this site had exceeded the 5-acre limit for a small mining operation. A GPS survey of the site identified approximately 12 acres had been disturbed by mining operations.
- On July 20, 1998, the Division issued a Notice of Agency Action (NAA), and Division Directive to the operator identifying the non-compliance concerns at the site. Mitigation

required the operator to cease mining operations until an interim reclamation surety and a LMO-NOI was posted with the Division.

- On July 27, 1998, the Operator filed an appeal of the NAA requesting an informal hearing to resolve the non-compliance issues.
- On August 4, 1998, an informal hearing was conducted before the Division Director. The Division Director issued an Order that included the following findings:
 - ▶ American Stone had exceeded the five (5) acre disturbance threshold allowed under the Small Mining Regulations for the Peoa Blonde Quarry.
 - ▶ That Mr. Thomas's previous exposure and experience before the Board and Division, regarding permitting and bonding requirements for his other mine sites, makes him knowledgeable of the requirements of the Minerals Regulatory Program.
 - ▶ That American Stone, Inc. post an interim \$25,000 reclamation surety with the Division and file a complete and accurate LMO-NOI within a specified time frame.
- On October 19, 1998, the American Stone, Inc. was notified of the Divisions approval of the form and amount of interim reclamation surety and was reminded that mining activities *must be restricted to the current extent of surface disturbance associated with the quarry and that further expansion of the existing disturbance is prohibited until the LMO-NOI is approved by the Division.*
- On October 27, 1998, the Division received the initial LMO-NOI application for the Peoa Blonde Quarry from American Stone, Inc..
- On January 5, 1999, American Stone, Inc. was advised of the status of the Peoa Quarry permit review, and was again reminded that *"construction of any new disturbance or expansion of existing mining related disturbances is not permitted until your large mining Notice is approved and the final reclamation surety is in place. Operations may continue only within the existing disturbance during the review period so long as good faith efforts to resolve permitting issues continue."*
- On March 11, 1999, the Division completed its initial review of the LMO-NOI for the Peoa Blonde Quarry.
- On July 16, 1999, the Operator requested a filing extension to the Division's March 11, 1999 review comments. An extension was approved for submitting the response until October 8, 1999.
- On September 15, 1999, the Division performed a routine inspection of the Peoa Blonde Quarry. It was determined that the site had been expanded to 17.7 acres (by GPS

measurement). The disturbance also exceeded the limits of the *proposed* disturbed area boundary as shown on the maps submitted with the latest LMO-NOI application. An active crusher was also noted during the inspection. It was subsequently determined that the operator did not have an Air Quality Approval Order or a state permit to operate the crusher at this site.

Division Order

1. American Stone Inc. must **increase** the amount of interim reclamation surety presently filed with the Division. An increase of \$12,000 has been estimated for the additional disturbed acreage. The new interim surety amount would total \$37,000. The increased surety amount is based on applying the calculated reclamation cost (of a similar quarry) of \$2,100 per acre to the estimated 5.7 acres of increased surface disturbance not included under the current interim surety.

The supplemental \$12,000 in surety must be filed with our office within **20 days** of your receipt of this Notice. This surety amount may eventually be increased or decreased to reflect third party reclamation as determined in the final approved Large Mining Operation Notice of Intention (LMO-NOI) for this site.

2. American Stone must submit an amendment to revise the LMO-NOI application within 45 days of receipt of this Notice. The amendment must address the affected areas that have not been included in the operator's latest revised NOI-LMO application.
3. American Stone must cease all mining activities of the site until the interim reclamation surety has been received and accepted by the Division. Formal acceptance of the interim surety will allow mining activity within the currently disturbed area footprint to continue until the LMO-NOI has been formally approved by the Division. Any continued mining activities are also subject to approval from other applicable federal, state and county regulatory agencies.

Right to Appeal

American Stone Inc. has the right to appeal the Division's decision on this matter by requesting an *informal* administrative hearing before the Division Director. A *written* appeal to this decision must be filed with this office within 10 days of your receipt of this certified letter. If a hearing is not requested, then the Division's decision will become final.

Instructions for Filing an Appeal of the Division Decision

The written appeal must state: 1) your intent to appeal; 2) the specific violations you wish to appeal. This written appeal must be filed with this office within 10 days of your receipt of this certified letter. An Informal Hearing is conducted under the provisions of the Rules and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

Informal Hearing Conducted before Division Director

R647-5-104(2.11.5) - The adjudicative proceeding will be conducted informally according to the provisions of these Rules and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

Legal Authority and Jurisdiction

R647-5-104(2.11.117) - Pursuant to section 40-8-5, Utah Code Annotated (1953, as amended), and Minerals Rules, sections R647-3-113, R647-4-101, and R647-4-113.

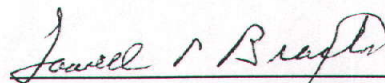
Purpose of Adjudicative Proceeding

R647-5-104(2.11.119) - The purpose of the adjudicative proceeding (if requested by the operator) will be to provide the operator an opportunity to contest the Division Order.

Consequences of Continued Non-Compliance

1. American Stone Inc.'s failure to comply with these requirements within the time frames specified in this Notice will result in issuance of a Notice of Agency Action requiring an appearance at a formal hearing before the Board of Oil, Gas and Mining. After Notice and Hearing, the Board will issue an abatement or compliance order which may require: suspension or termination of all mining operations, immediate reclamation of all mining-related disturbances, and/or other lawful requirements as authorized under the Act.
2. The Board may choose to bring suit against American Stone Inc. in a local court seeking restraining orders, injunctions, and /or the judicial assessment of appropriate civil penalties, not to exceed \$10,000 per day for each finding of a willful and knowing violation of the Act.

Dated this 8th day of November, 1999.




Lowell P. Braxton, Director
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing Notice of Agency Action, Division Order, for American Stone, Inc., Peoa Blonde Quarry, M/043/012, to be mailed by first class mail, postage prepaid, the 8th day of November 1999 to:

1. CERTIFIED MAIL - P 074 976 782
Lon Thomas
American Stone Inc.
4040 South 300 West
Salt Lake City, Utah 84107
2. Clifford Blomquist
Summit County
60 North Main
P.O. Box 128
Coalville, Utah 84017
3. Tom Mitchell
Assistant Attorney General
160 East 300 South - 5th Floor
P.O. Box 140857
Salt Lake City, Utah 84114-0857



Joelle Burns
Minerals Engineering Technician

Is your RETURN ADDRESS completed on the reverse side?

SENDER: JB DOGM M/043/012 NAA

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

LON THOMAS
AMERICAN STONE INC
4040 S 300 W
SALT LAKE CITY UT 84107

4a. Article Number

P 074 976 782

4b. Service Type

- | | |
|---|---|
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Insured |
| <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD |

7. Date of Delivery

NOV 09 1999

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X

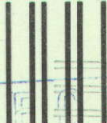
PS Form 3811, December 1994

102595-97-B-0179

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DIVISION
OF

DIV. OF OIL, GAS & MINING

OIL GAS & MINING

1594 W NORTH TEMPLE STE 1210

BOX 145801

SALT LAKE CITY UT 84114-5801

